

COURT NO. 1
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

142.

OA 1304/2024 with MA 4429/2024

Ex Sgt Sachin Applicant
Versus
Union of India & Ors. Respondents

For Applicant : Mr. Ved Prakash, Advocate
For Respondents : Mr. Neeraj, Sr CGSC

CORAM

HON'BLE MR. JUSTICE RAJENDRA MENON, CHAIRPERSON
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

O R D E R
10.12.2024

MA 4429/2024

For the averments made in the application, delay in filing the counter affidavit is condoned. Counter affidavit is taken on record. MA stands disposed of.

OA 1304/2024

2. Invoking the jurisdiction of this Tribunal under Section 14 of the Armed Forces Tribunal Act, 2007, the applicant has filed this application and prayer 8 reads as under:-

“(a) Quash and set-aside Impugned order no. Air HQ/99801/3/793370/DAV (Med) dated 16.11.2023.

(b) Direct the respondents to conduct Re-survey/Review/Appeal/Release Medical Board of the applicant.

(c) Any other relief which the Hon'ble Tribunal may deem fit and proper in the fact and circumstances of the case along with cost of the application in favour of the applicant and against the respondents.”

3. As far as prayer for conducting RSMB is concerned we find that the applicant was enrolled in Indian Air Force on 16th December, 2002 and discharged from service on 31st December, 2022 in medical category A4G1 after completing 20 years 16 days of service. Thereafter he sought for conduct of RSMB before the Competent Authority vide letter dated 09.10.2023 on the ground that he was suffering from hearing loss since he was in service and it further worsened later on within a period 07 years of his discharge.

4. Respondents have filed the counter affidavit and have resisted the claim on merit indicating that the RMB held on 21.04.2022 found the applicant fit to be released from service in medical category A4G1 and at the time of discharge he was not suffering from any disability. Without entering into the controversy on merit based on the objections raised by the respondents the simple issue before this Tribunal as on date is with regard to as to whether, an RSMB can be conducted in the facts and circumstances of the case or not.

5. Considering the fact that the applicant is seeking for conduct of RSMB within a period of 07 years of his discharge even after being discharged in A4G1 and as per policy letter No. 1(3)/2002/D(Pen/Pol) dated 18.01.2009 Entitlement Rule 8(a) issued by Ministry of Defence, he is entitled for the same.

6. We, for the present, without entering into any controversy direct that on applicant's filing of this order along with his application dated 09.10.2023 before the Competent Authority, the Competent Authority shall take steps for conducting the RSMB, get the applicant examined and forward the report to the applicant. The applicant is directed to ensure that he appear before the appropriate medical board on receipt of notice for conduct of RSMB. The entire process in pursuance to hereinabove be completed within three months.

7. OA stands disposed of.

[JUSTICE RAJENDRA MENON]
CHAIRPERSON

[REAR ADMIRAL DHIREN VIG]
MEMBER (A)

/Priya/